

AMENDED IN ASSEMBLY MAY 23, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1411

**Introduced by Committee on Revenue and Taxation (Bocanegra
(Chair), Gordon, Mullin, Pan, V. Manuel Pérez, and Ting)**

March 19, 2013

An act to amend Section 19266 of the Revenue and Taxation Code,
relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1411, as amended, Committee on Revenue and Taxation. Tax
administration: Financial Institution Record Match *System*: addresses.

Existing law requires the Franchise Tax Board to administer specified
taxes and collect those taxes from delinquent tax debtors. Existing law
requires the Franchise Tax Board, in coordination with financial
institutions doing business in this state, to operate a Financial Institution
Record Match System utilizing automated data exchanges to the
maximum extent feasible in order to allow the Franchise Tax Board to
match its list of delinquent tax debtors, as defined, with the lists provided
by the financial institutions. Information provided by financial
institutions relating to tax debtors includes the name, record address,
other addresses, and other identifying information for each delinquent
tax debtor, as identified by the Franchise Tax Board. Existing law
prohibits the use of tax debtor information by the Franchise Tax Board
for purposes other than tax collection, and punishes the unauthorized
use of certain data as a misdemeanor.

This bill would remove the prohibition on the Franchise Tax Board
on using Financial Institution Record Match *System* tax debtor address
information for purposes other than tax collection.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19266 of the Revenue and Taxation Code
2 is amended to read:
3 19266. (a) (1) The Franchise Tax Board, in coordination with
4 financial institutions doing business in this state, shall operate a
5 Financial Institution Record Match System utilizing automated
6 data exchanges to the maximum extent feasible.
7 (2) The Franchise Tax Board shall prescribe any rules and
8 regulations that may be necessary or appropriate to implement this
9 section. These rules and regulations shall include all of the
10 following:
11 (A) A structure by which financial institutions, or their
12 designated data-processing agents, shall receive from the Franchise
13 Tax Board the file or files of delinquent debtors that the institution
14 shall match with its own list of accountholders to identify
15 delinquent tax debtor accountholders at the institution.
16 (B) An option by which financial institutions without the
17 technical ability to process the data exchange, or without the ability
18 to employ a third-party data processor to process the data exchange,
19 may forward to the Franchise Tax Board a list of all accountholders
20 and their social security numbers or other taxpayer identification
21 numbers, so that the Franchise Tax Board shall match that list with
22 the file or files of delinquent tax debtors.
23 (C) Authority for the Franchise Tax Board to exempt a financial
24 institution from the requirements of this section if the Franchise
25 Tax Board determines that the financial institution participation
26 would not generate sufficient revenue to be cost effective for the
27 Franchise Tax Board.
28 (D) Authority for the Franchise Tax Board to temporarily
29 suspend the requirements of this section for a financial institution
30 if the financial institution provides the Franchise Tax Board with
31 a written notice from its supervisory banking authority that it is
32 determined to be undercapitalized, significantly undercapitalized,
33 or critically undercapitalized as defined by FDIC Regulation
34 325.103(b)(3), (4), and (5) or NCUA Regulation 702.102. The

1 notice provided pursuant to this subparagraph shall be subject to
2 the protections of Section 19542.

3 (b) The Financial Institution Record Match System shall not be
4 subject to any limitation set forth in Chapter 20 (commencing with
5 Section 7460) of Division 7 of Title 1 of the Government Code.
6 However, any use of the information, other than information
7 relating to an individual's address, provided pursuant to this section
8 for any purpose other than the collection of amounts identified in
9 paragraphs (1), (2), and (3) shall be a violation of Section 19542.

10 (1) Delinquent amounts due the board, as imposed under Part
11 1 (commencing with Section 6001), Part 1.5 (commencing with
12 Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7
13 (commencing with Section 7280), Part 3 (commencing with Section
14 8601), Part 3.5 (commencing with Section 9401), Part 6
15 (commencing with Section 11201), Part 13 (commencing with
16 Section 30001), Part 14 (commencing with Section 32001), Part
17 18.5 (commencing with Section 38101), Part 19 (commencing
18 with Section 40001), Part 20 (commencing with Section 41001),
19 Part 22 (commencing with Section 43001), Part 22.5 (commencing
20 with Section 44000), Part 23 (commencing with Section 45001),
21 Part 24 (commencing with Section 46001), Part 26 (commencing
22 with Section 50101), Part 30 (commencing with Section 55001),
23 or Part 31 (commencing with Section 60001).

24 (2) Delinquent amounts due the Employment Development
25 Department, as imposed under the Unemployment Insurance Code,
26 or other debts or penalty assessments referred to the Employment
27 Development Department for collection.

28 (3) Delinquent franchise or income tax or other debts referred
29 to the Franchise Tax Board for collection, as imposed under Part
30 5 (commencing with Section 10701), Part 10 (commencing with
31 Section 17001), this part, or Part 11 (commencing with Section
32 23001).

33 (c) (1) To effectuate the Financial Institution Record Match
34 System, financial institutions subject to this section shall provide
35 to the Franchise Tax Board on a quarterly basis the name, record
36 address, and other addresses, social security number or other
37 taxpayer identification number, and other identifying information
38 for each delinquent tax debtor, as identified by the Franchise Tax
39 Board by name and social security number or other taxpayer
40 identification number, who maintains an account at the institution.

(2) The first data file created by the Franchise Tax Board for purposes of matching tax debtor records to financial institution accountholder records shall be limited to 600,000 tax debtor records. The number of tax debtor records included in a subsequent data file created by the Franchise Tax Board may be increased by no more than 600,000 tax debtor records greater than the number of tax debtor records included in the immediately preceding data file until all eligible tax debtor records are included in the data match file.

(d) Unless otherwise required by law, a financial institution furnishing a report or providing information to the Franchise Tax Board pursuant to this section shall not disclose to a depositor or an accountholder, or a codepositor or coaccountholder, that the name, address, social security number or other taxpayer identification number, or other identifying information of that delinquent tax debtor has been received from or furnished to the Franchise Tax Board.

(e) A financial institution shall incur no obligation or liability to any person arising from any of the following:

(1) Furnishing information to the Franchise Tax Board as required by this section.

(2) Failing to disclose to a depositor or accountholder that the name, address, social security number or other taxpayer identification number, or other identifying information of that delinquent tax debtor was included in the data exchange with the Franchise Tax Board required by this section.

(3) Any other action taken in good faith to comply with the requirements of this section.

(f) The Franchise Tax Board may institute civil proceedings to enforce this section.

(g) Any financial institution that willfully fails to comply with the rules and regulations promulgated by the Franchise Tax Board for the administration of delinquent tax collections, unless it is shown to the satisfaction of the Franchise Tax Board that the failure is due to reasonable cause, shall be assessed a penalty upon notice and demand of the Franchise Tax Board and collected in the same manner as tax. The penalty imposed under this section shall be in an amount equal to fifty dollars (\$50) for each record not provided, but the total imposed on that financial institution for all such

1 failures during any calendar year shall not exceed one hundred
2 thousand dollars (\$100,000).

3 (h) For purposes of this section:

4 (1) "Account" means a demand deposit account, share or share
5 draft account, checking or negotiable withdrawal order account,
6 savings account, time deposit account, or money market mutual
7 fund account, regardless of whether the account bears interest.

8 (2) "Financial institution" means:

9 (A) A depository institution, as defined in Section 1813(c) of
10 Title 12 of the United States Code.

11 (B) An institution-affiliated party, as defined in Section 1813(u)
12 of Title 12 of the United States Code.

13 (C) A federal credit union or state credit union, as defined in
14 Section 1752 of Title 12 of the United States Code, including an
15 institution-affiliated party of a credit union, as defined in Section
16 1786(r) of Title 12 of the United States Code.

17 (D) A benefit association, insurance company, safe deposit
18 company, money-market fund, or similar entity authorized to do
19 business in this state.

20 (3) "Delinquent tax debtor" means any of the following:

21 (A) Any person liable for any tax, fee, or surcharge amounts,
22 and any penalty, interest, or other amounts required to be paid to
23 the board, where the liability remains unpaid after 30 days from
24 demand for payment by the board, and the person is not making
25 current timely installment payments on the liability under an
26 installment payment agreement as provided by law.

27 (B) Any person liable for any amounts required to be paid to
28 the Employment Development Department or for any debts or
29 penalty assessments referred to the Employment Development
30 Department for collection and the person is not making current
31 timely installment payments on the liability under an approved
32 installment payment agreement as provided by law.

33 (C) Any person liable for any income or franchise tax or other
34 debt referred to the Franchise Tax Board for collection as imposed
35 under Part 5 (commencing with Section 10701), Part 10
36 (commencing with Section 17001), this part, or Part 11
37 (commencing with Section 23001), including tax, penalties,
38 interest, and fees, where the tax or debt, including the amount, if
39 any, referred to the Franchise Tax Board for collection remains
40 unpaid after 30 days from demand for payment by the Franchise

1 Tax Board, and the person is not making current timely installment
2 payments on the liability under an agreement pursuant to Section
3 19008.

4 (i) A financial institution shall be reimbursed by the Franchise
5 Tax Board for actual costs incurred to implement this section.
6 Upon receipt of an invoice from the financial institution, cost
7 reimbursement by the Franchise Tax Board shall be limited to the
8 following:

9 (1) For one-time startup costs of a financial institution, no more
10 than two thousand five hundred dollars (\$2,500).

11 (2) For data matching costs of a financial institution, other than
12 one-time startup costs, no more than two hundred fifty dollars
13 (\$250) per calendar quarter.

14 (j) The first data exchange for purposes of matching tax debtor
15 records to financial institution accountholder records shall occur
16 no earlier than April 1, 2012.

17 (k) This section shall be operative 120 days after the effective
18 date of Chapter 14 of the Statutes of 2011 and shall apply with
19 respect to persons that are delinquent tax debtors on and after that
20 date.

21 (1) Notwithstanding any other law, on or after January 1, 2013,
22 and on a quarterly basis thereafter, the board and the Employment
23 Development Department shall, in the format and manner specified
24 by the Franchise Tax Board, provide their respective delinquent
25 tax debtor information to the Franchise Tax Board for inclusion
26 in the ~~Financial Institutions Records~~ *Institution Record Match*
27 *System*.

28 (2) The Franchise Tax Board shall include the delinquent tax
29 debtor information provided by the board and the Employment
30 Development Department in its data file used to match delinquent
31 tax debtor records to financial institution accountholder records.

32 (3) The Franchise Tax Board shall provide the board or the
33 Employment Development Department, as applicable, with any
34 matched financial institution accountholder record information
35 resulting from the delinquent tax debtor information provided by
36 the board or the Employment Development Department.

37 (4) The board and the Employment Development Department
38 shall reimburse the Franchise Tax Board for any costs incurred by
39 the Franchise Tax Board related to the implementation and
40 administration of this section with respect to delinquent tax debtors

1 described in subparagraph (A) or (B), respectively, of paragraph
2 (3) of subdivision (h).
3 (l) The amendments to this section by the act adding this
4 subdivision shall apply to information provided pursuant to this
5 section before, on, and after the effective date of that act.

O